

The Honorable Barbara J. Rothstein

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON AT SEATTLE

CLARK LANDIS, ROBERT BARKER,
GRADY THOMPSON, and KAYLA BROWN,

Plaintiffs,

v.

WASHINGTON STATE MAJOR LEAGUE
BASEBALL STADIUM PUBLIC
FACILITIES DISTRICT; and BASEBALL OF
SEATTLE, INC., a duly licensed Washington
corporation, d.b.a. Mariners Baseball, LLC, a
duly licensed Washington limited liability
company, d.b.a. The Baseball Club of Seattle,
LLLP, a duly licensed Washington limited
liability limited partnership,

Defendants.

NO. 2:18-cv-01512-BJR

**DECLARATION OF MALCOLM
ROGEL IN SUPPORT OF
DEFENDANTS' OPPOSITION TO
MOTION FOR SUMMARY
JUDGMENT**

NOTE ON MOTION CALENDAR:
June 14, 2019

I, MALCOLM ROGEL, declare as follows:

1. I am the Senior Vice President of Ticket and Event Services for the Seattle Mariners. I have been employed by the Mariners since 1999. I am competent to testify and make this declaration based on personal knowledge.

2. In my role with the Mariners, I oversee all aspects of ticketing. As a result, I am knowledgeable about the location of seats in T-Mobile Park (the "Stadium"), as well as the classes of seats offered, and the amenities and prices associated with each class of seat.

DECLARATION OF MALCOLM ROGEL - 1
(No. 2:18-cv-01512-BJR)

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1 3. My responsibilities also include acting as the liaison between the Mariners and
2 Service America Corporation d/b/a Centerplate, which is the primary concessionaire at the
3 Stadium

4 **A. Accessible Seating**

5 4. The Stadium is composed of four tiers of seating, which are vertically-stacked:
6 the 100 Level, the 200 or “Club” Level, the Suite level, and the 300 Level. To afford fans with
7 the best views possible, each level is sloped. Within each level, seating is divided vertically
8 and horizontally into “Sections.”

9 5. Attached as **Exhibit A**, is a map showing the four tiers of the Stadium and the
10 various seating Sections. The four tiers are demarcated by different shades of gray. Red circles
11 with white wheelchair icons indicate the locations of wheelchair accessible and companion
12 spaces (“ADA seating”) throughout the Stadium.

13 6. On the 100, 200, and Suite Levels, a concourse is located at the rear of each
14 Section. A concourse is also located on the 300 Level, but guests access their seats from the
15 concourse through vomitories that are located in approximately the middle of the 300 Level.

16 7. As indicated on Exhibit A, all ADA seating is located adjacent to concourses.
17 This to ensure that guests have a wheelchair-accessible means of egress to their seats, as well as
18 proximate access to concourse amenities. Within the concourses, fans can visit concessions
19 (both built-in and mobile), restaurants and bars, restrooms, elevators, gift shops and guest
20 services. The proximity of ADA seating to the concourse also ensures that in the event of
21 emergency, ADA guests are closest to escape routes, Mariners’ personnel, and first responders.

22 8. Aside from the concourse access points described above, the only other points of
23 access to seating are on the 100 Level and clustered behind home plate. There are four tunnels
24 that provide access to the front of the 100 Level Sections. They are located in between the
25 Visitors’ Dugout and Section 35, in between Section 35 and 33, in between Section 33 and 27,
26 and in between Section 27 and 25. The first two tunnels are ADA accessible. As indicated by
27 the wheelchair icon on Exhibit A, 16 ADA spaces (8 wheelchair accessible spaces and 8

1 companion spaces), are located in the front row of Section 35, between the two ADA accessible
2 tunnels located on either side of Section 35. As further discussed below, some of these are
3 being offered as Diamond Club ADA seating and others are offered as Premier ADA seating.

4 9. In other words, ADA seating has been placed along *every* accessible path of
5 egress within the Stadium. This ensures that all guests (ADA and non-ADA) can select from a
6 range of vertical vantage points and prices.

7 10. Furthermore, rather than clustering ADA spaces at the highest tier of the
8 Stadium (300 Level), ADA seating is located in greater numbers on the 100 Level, which is
9 closest to the playing field.

10 11. As indicated in Exhibit A, ADA seating is dispersed vertically, and it is also
11 dispersed and distributed horizontally, all around the perimeter of the field. Again, this ensures
12 that all guests (ADA and non-ADA) are able to select from a wide variety of perspectives and
13 sightlines, as well as different ticket pricing.

14 **B. Ticket Pricing**

15 12. Tickets to Mariners games are generally offered in three different groupings or
16 buckets: season tickets, group tickets, and individual tickets. Depending on the time of year, a
17 ticket may be offered in any one of these three ways. Season tickets are sold first, with sales
18 beginning in November prior to a season (i.e., season tickets for the current 2019 season went
19 on sale in November 2018), and group tickets and individual game tickets are offered for sale
20 subsequently. Season ticket prices are set and do not vary, but the pricing for group tickets and
21 individual game tickets is dynamic and may be affected by a number of factors, including
22 availability of inventory, demand, weather, day of week, opponent, and team standing.

23 13. Seats are grouped into many different price levels. The price level a seat is
24 assigned varies depending on the amenities associated with the seat, as well as the location of
25 the seat (*e.g.* proximity to home plate and to the field). These price levels are also impacted by
26 the factors discussed in the preceding paragraph.

1 14. Regardless of location, ADA seating is priced at or below the non-accessible
2 seats that are adjacent to them.

3 15. Certain seats are identified as “premium” because they are considered to be
4 among the best seats at the Stadium. While the exact locations and offerings can vary by
5 season, for the 2019 season, Premium Seats are located in the Diamond Club (Sections 35, 33,
6 27 and 25), Premier Seats (certain rows nearer to the field in Sections 112-148), at Level 200
7 (“Club Level”), and on the Suite Level/All-Star Club. *See, e.g.*,
8 <https://www.mlb.com/mariners/tickets/premium>. ADA spaces are available in each of the
9 Premium Seating areas.

10 16. The Mariners implemented an ADA Seating Expansion project over the past off-
11 season. As a result, sixteen (16) additional accessible seating spaces have been added to the
12 100 Level in Section 35. These are seats that are in the first row next to the field. Four are
13 Diamond Club and twelve are Premier seats.

14 17. In short, ADA seating spans the same range of price points as tickets that are
15 offered to non-ADA guests. Similarly, ADA seating is made available and offered for sale in
16 the same manner and under the same conditions as all other ticket sales, including (a) during
17 the same hours, (b) through the same methods of purchase (*e.g.*, by telephone, on site, through
18 Ticketmaster), and (c) during the same stages of sale (*e.g.*, season tickets, followed by group
19 tickets and single-game tickets).

20 18. By way of example, an illustrative search for accessible seat tickets for the
21 Mariners game against the Cincinnati Reds on September 10, 2019 indicates seats available in a
22 wide range of prices and locations.¹ For the September 10 game, accessible seats are available
23 at the following price points and locations:

- 24 • \$17, Section 192, Seat 17A
- 25 • \$20, Section 181, Seat 8A

26 ¹ Search performed on Jun 7, 2019 by accessing <https://www.mlb.com/mariners/tickets> then
27 <https://www.mlb.com/mariners/tickets/single-game-tickets>, which lists forthcoming games and has a click-through
link to Ticketmaster for purchasing.

- \$26, Section 315, Seat 5A
- \$30, Section 318, Seat 5A
- \$35, Section 328, Seat 5A
- \$39, Section 142, Seat 41A
- \$55, Section 214, Seat 11A
- \$60, Section 239, Seat 11A
- \$75, Section 35, Seat 1A²

19. Additionally, the Mariners take steps to ensure that accessible seating is used only by fans with accessible needs and their companions. For example, when one purchases tickets on-line, a pop-window appears that requires the purchaser to affirmatively agree that she or he is (or a member of his/her party) has a disability that requires accessible features provided by the seating locations being purchased. *See* Ex. B.

C. Centerplate and Accessible Concessions

20. The Mariner's contract with Centerplate obligates it to operate in compliance with all applicable law. The contract also includes a specific nondiscrimination provision, which requires Centerplate, and its contractors and subcontractors, to comply with all applicable law pertaining to nondiscrimination, in both the provision of services and in employment, with specific reference to compliance with the ADA.

I DECLARE UNDER PENALTY OF PERJURY UNDER THE LAWS OF THE UNITED STATES OF AMERICA THAT THE FOREGOING IS TRUE AND CORRECT.

Executed this 7 day of June, 2019 at Seattle, Washington.


Malcolm Rogel

² Attached hereto as **Exhibit B** is a true and correct copy of a screenshot of the purchase screen for this seat as accessed on June 7, 2019.

Exhibit A

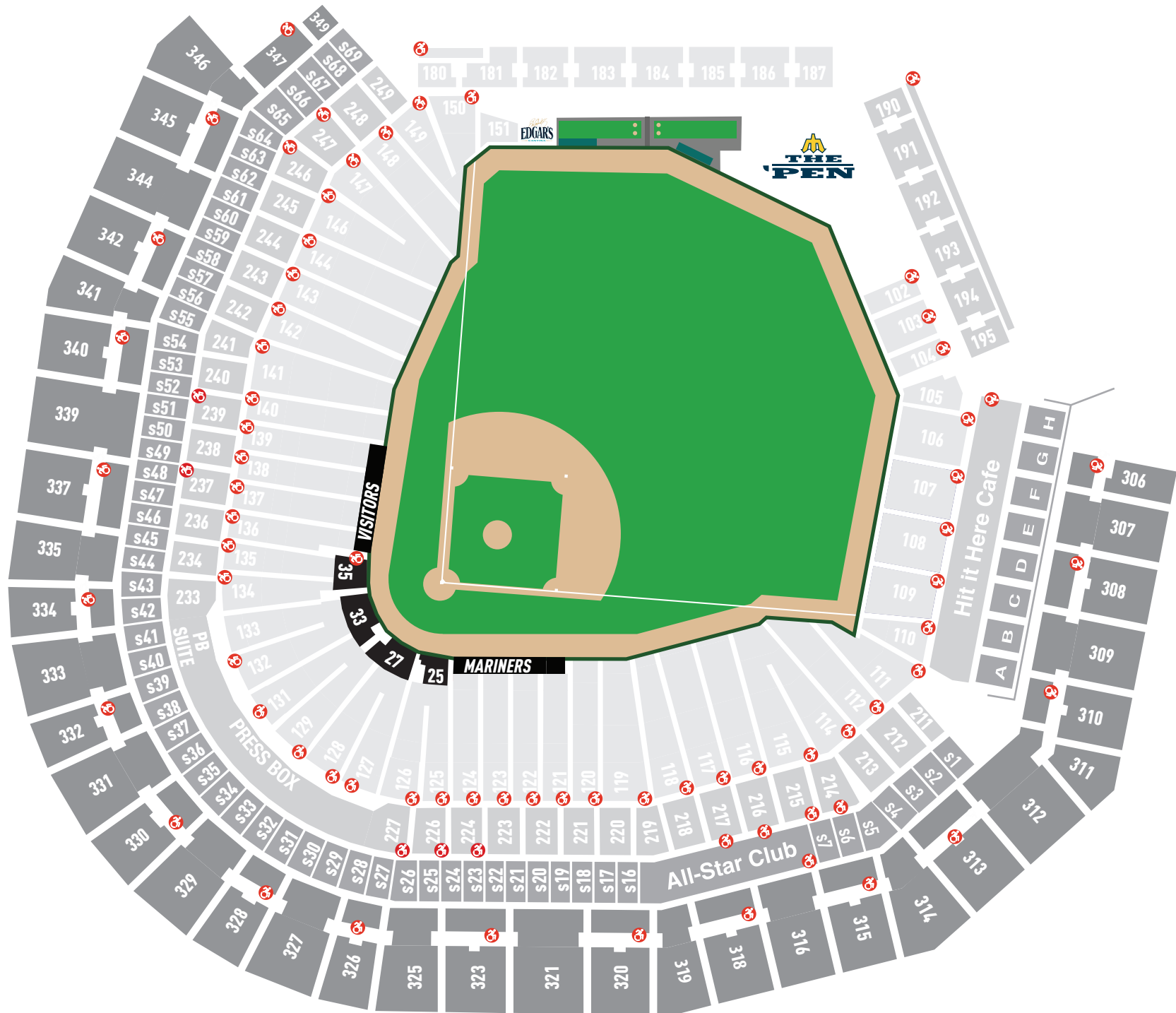
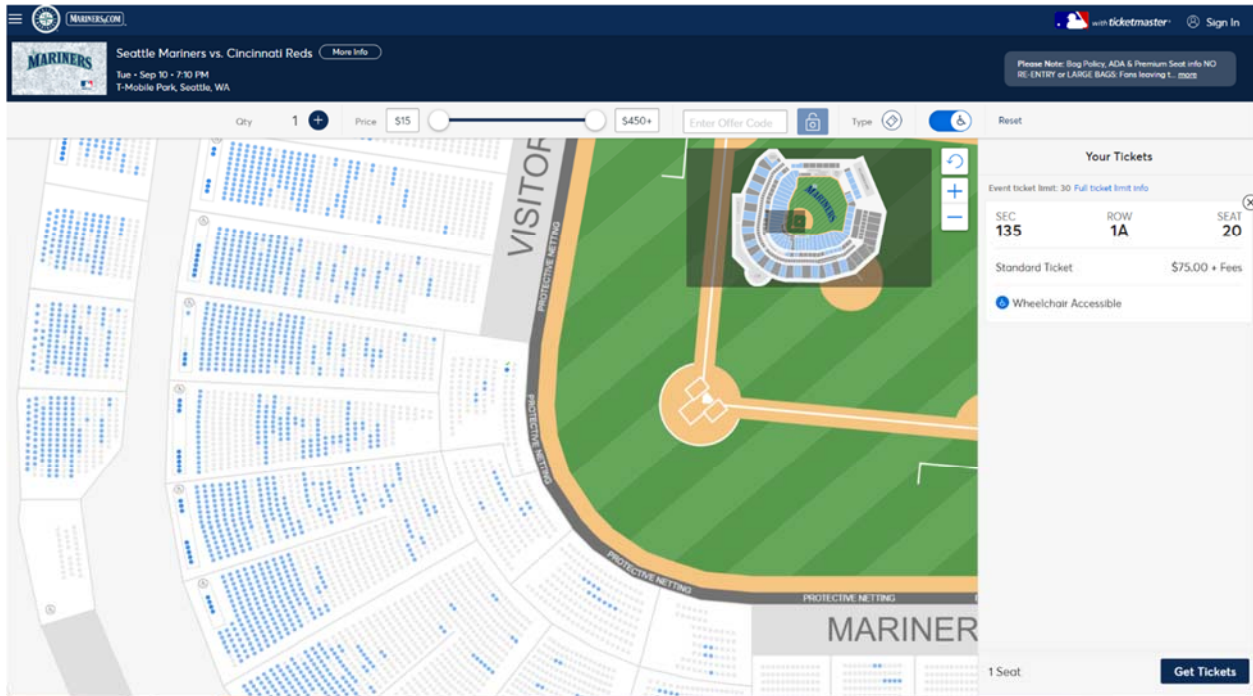


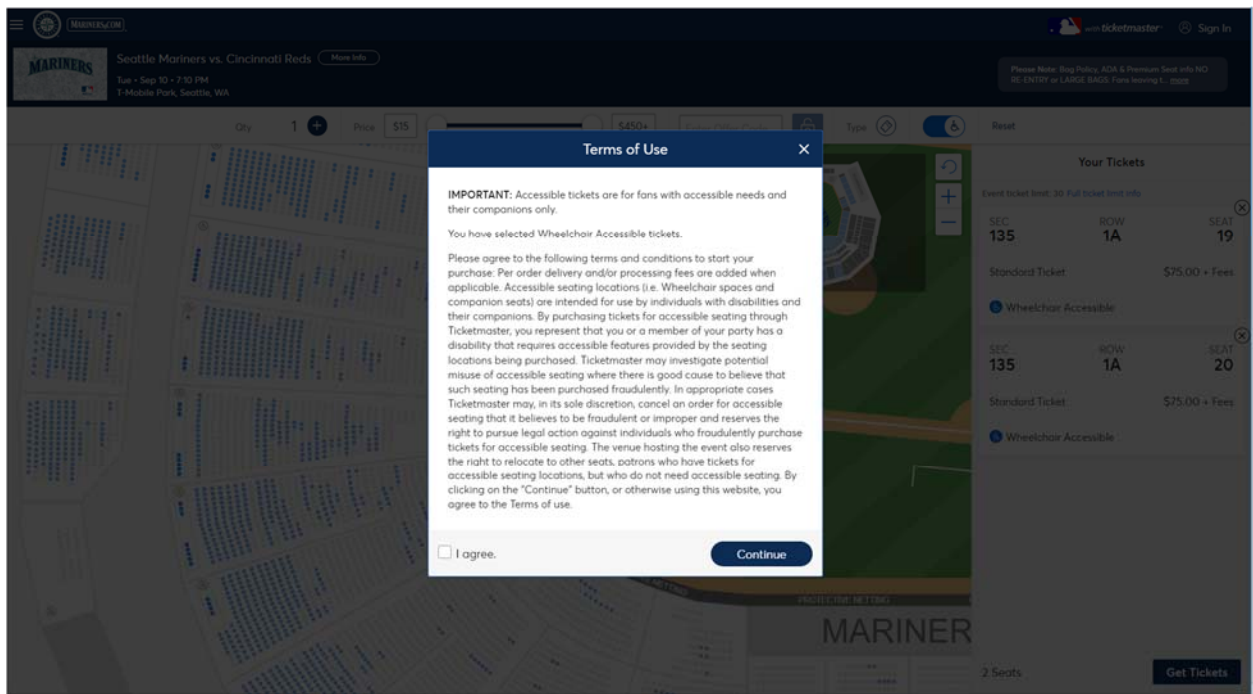
Exhibit B

EXHIBIT B



Accessed 6/7/19: <https://www.mlb.com/mariners/tickets>

https://www1.ticketmaster.com/event/0F005559C9FB45C9?tfl=Seattle_Mariners-tickets-Seattle_Mariners:_Tickets:_Mariners_Single_Game_Tickets-single_game_tickets-x0-Desktop-Landscape



CERTIFICATE OF SERVICE

The undersigned hereby certifies that, on June 10, 2019, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all counsel of record.



Rondi A. Greer